

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

**UNITED STATES OF AMERICA**

v.

**ANTONIO HERNANDEZ MOHEDANO,**

Defendant.

Case No. 1:15CR00003-014

**OPINION AND ORDER**

By: James P. Jones  
United States District Judge

*Jennifer R. Bockhorst, Assistant United States Attorney, Roanoke, Virginia,  
for United States; Antonio Hernandez Mohedano, Pro Se Defendant.*

An evidentiary hearing is necessary to resolve defendant Antonio Hernandez Mohedano's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 (ECF No. 916). In one of the three § 2255 claims, Mohedano alleges that counsel rendered ineffective assistance, in violation of the Sixth Amendment, by not filing a notice of appeal when requested. Consequently, Mohedano presents at least one colorable claim of ineffective assistance of counsel, and the court defers adjudication of Mohedano's other § 2255 claims. *See, e.g., United States v. Killian*, 22 F. App'x 300, 301 (4th Cir. 2001) (unpublished) (stating that a district court should not adjudicate other § 2255 claims if vacatur is warranted); *United States v. Witherspoon*, 231 F.3d 923, 926–27 (4th Cir. 2000) (discussing effective representation as to notices of appeal).

For these reasons, it is hereby **ORDERED** as follows:

1. The United States' Motion to Dismiss (ECF No. 929) is TAKEN UNDER ADVISEMENT;
2. The defendant's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 will be subject to an evidentiary hearing before the undersigned, limited to the issue a notice of appeal;
3. The clerk will arrange the appointment of counsel for defendant for the hearing;
4. The clerk will schedule the hearing and will arrange for the defendant to appear at the hearing by video conference from his place of incarceration; and
5. The clerk will send copies of this Order to the defendant and to appointed counsel.

ENTER: February 1, 2019

/s/ James P. Jones

United States District Judge